

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED - GR
December 9, 2020 1:59 PM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY:JMW SCANNED BY: JW / 12-9

MR. WILLIAM ANTHONY JONES, #168654,

PETITIONER,

SHERRY L. BURT,

RESPONDENT,

CASE NO 1:15-CV-1338

HON. ROBERT J. JONKER

MAGISTRATE PHILLIP J. GREEN

PETITIONERS STATEMENT AND INVOCATION
OF THE PRISON MAILBOX RULE REGARDING
MAILING OF THE ORIGINAL NOTICE OF APPEALS
TO THE U.S. DISTRICT CLERK'S OFFICE

YOUR HONOR--THIS CASE HAS COME BEFORE YOUR COURT TO BESTOW JURISDICTION UPON THE COURT OF APPEALS FOR THE 6TH CIRCUIT REGARDING THE APPELLATE REVIEW OF THE PETITION FOR WRIT OF HABEAS CORPUS WHICH WAS DENIED ON MAY 6, 2020.

AS THAT THE NOTICE OF APPEAL WAS ONLY A FEW PAGES, THE PLAINTIFF PLACED THE NOTICE OF APPEAL IN A REGULAR, ENVELOPE WITH POSTAGE PRE-PAID UPON THE ENVELOPE AND PLACED SAID ENVELOPE IN THE PRISONER U.S. MAILBOX FOR OUTGOING MAIL. THIS WAS DONE ON THE DATES OF MAY 10, 2020 AND MAY 30, 2020 AND EVEN PLACED A THIRD ONE IN THE MAIL ON JULY 15, 2020 AFTER THE TIME PERIOD HAD ALREADY COME AND GONE AND PLAINTIFF HAD NEVER HEARD ANYTHING.

THE DOCUMENTS WERE MAIL WITH CLEARLY ENTITLED LETTERS TO THE CLERK AND WERE IN FACT PLACED IN THE OUTGOING MAIL FOR PROCESSING.

PLAINTIFF HAS READ THE AFFIDAVIT OF GAYLE SCANLON IN WHICH SHE STATES THAT MAIL PROCESSED THROUGH OUTGOING EXPEDITED LEGAL MAIL AND AS SHE HAS STATED, THE MAIL CAN ALSO BE SENT OUT BY THE REGULAR OUTGOING MAILING SYSTEM USING HIS OWN ENVELOPES THAT ALREADY HAVE THE POSTAGE AFFIXED AND PETITIONER DID UTILIZE THAT AS IT WAS AN OFFER WHICH HAS BEEN SWORN TO AND PROVEN BY GAYLE SCANLON ON PAGE 1 #34 WHERE SHE SAID "A PRISONER CAN SEND MAIL OUT IN ANY OF THREE WAYS, BY USING HIS OWN ENVELOPES THAT ALREADY HAVE THE POSTAGE AFFIXED."

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PLAINTIFF DID IT JUST THAT WAY AND PLAINTIFF DID IN FACT USE HIS OWN ENVELOPES WITH THE POSTAGE AFFIXED TO THEM AND PLACED THEM IN THE OUTGOING MAIL AND PLAINTIFF DID THIS TWO TIMES AND THEREFORE, PLAINTIFF DID FULFILL ALL THE REQUIREMENTS THAT WERE WITHIN THE CONTROL OF THE PLAINTIFF AND DID SO KNOWING THAT THE U.S. MAIL WOULD CONSIDER IT FILED AND THE COURT WOULD CONSIDER IT FILED IN THE COURT AND UNDER THE MAILBOX RULE AS ALLOWED BY FEDERAL RULES OF APPELLATE PROCEDURE 4(a), HOUSTON V. LACK, 487 U.S. 266, 275-76(1988).

PETITIONER STATES THAT THE COURT SHOULD ALLOW THE CASE TO PROCEED ON DIRECT APPEAL BECAUSE THE MAILING OF THE DOCUMENTS DOES CONFER JURISDICTION UPON THE COURT OF APPEALS.

IT IS NOT THE FAULT OF THE PETITIONER IF THE NOTICES WERE NOT SENT TO THE COURT AND IT IS ACCORDINGLY DONE WITH CIRCUMSTANCES OUTSIDE OF THE PETITIONERS CONTROL THAT THE COURT DID NOT GET THE NOTICES AND THOSE REASONS SHOULD NOT BE HELD AGAINST THE PETITIONER BECAUSE THOSE REASONS ARE OUTSIDE OF THE CONTROL OF THE PETITIONER.

AS SUCH, PETITIONER HEREBY INVOKES THE PRISON MAILBOX RULE AND ASKS THIS COURT TO GRANT JURISDICTION TO THE COURT OF APPEALS BY DETERMINING THAT THE NOTICE OF APPEALS WERE FILED TIMELY.

RELIEF SOUGHT

WHEREFORE, PETITIONER PRAYS THIS COURT WILL ENTER AN ORDER TO ALLOW THE PETITIONERS INVOCATION OF THE MAILBOX RULE AND TO ALLOW THE APPEAL TO PROCEED AS A DIRECT, REGULAR APPEAL AND TO GRANT ANY FURTHER RELIEF THIS COURT DEEM NECESSARY AND APPROPRIATE.

RESPECTFULLY YOURS,


MR. WILLIAM ANTHONY JONES

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